



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
GENERAL COUNSEL

June 5, 2014

Kate Miller
Counsel, Trout Unlimited
1326 5th Ave., Suite 450
Seattle, WA 98101

Dear Ms. Miller:

Re: Freedom of Information Act Appeal EPA-HQ-2014-006370 (Request EPA-R10-2014-005091)

I am responding to your May 9, 2014 fee waiver appeal under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552. You appealed the April 11, 2014 decision of Larry Gottesman of the U.S. Environmental Protection Agency ("EPA" or "Agency") to deny your request for a fee waiver. You seek a waiver of all fees associated with your FOIA request on behalf of Trout Unlimited for certain identified records related to the proposed Pebble Mine project in Bristol Bay, Alaska, petitions filed with EPA seeking 404(c) action in Bristol Bay, and EPA's assessment entitled *An Assessment of Potential Mining Impacts on Salmon Ecosystems of Bristol Bay, Alaska*.

I have carefully considered your request for a fee waiver, EPA's initial fee waiver denial, and your appeal. I have concluded that your appeal of your request for a complete waiver of fees should be, and is, granted in full for the records described in your March 27, 2014 request.

The statutory standard for evaluating fee waiver requests is whether "disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the [Federal] government; and is not primarily in the commercial interest of the requester." 5 U.S.C. § 552(a)(4)(A)(iii). Based on the additional information you provided in your appeal, I have determined that you seek information that would significantly enhance the public's understanding of EPA's activity and operations. Additionally I find that you have provided sufficient information for this focused request to meet the other elements of the fee waiver standard.

This determination does not entitle you to future fee waivers for subsequent records requests. See *Judicial Watch, Inc., v. DOJ*, No.99-2315, 2000 WL 33724693, at *5 (D.D.C. Aug. 17, 2000). The EPA will evaluate any future request for a fee waiver on a case by case basis, using all facts available at the time and in light of the nature and circumstances of the

Ms. Kate Miller
EPA-HQ-2014-006370
Page 2 of 2

future request. This fee waiver also does not apply to materials that are already publicly available.

This letter constitutes EPA's final determination on this matter. Pursuant to 5 U.S.C. § 552(a)(4)(B), you may obtain judicial review of this determination by filing a complaint in the United States District Court for the district in which you reside or have your principal place of business, or the district in which the records are situated, or in the District of Columbia. As part of the 2007 FOIA amendments, the Office of Government Information Services (OGIS) within the National Archives and Records Administration was created to offer mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. You may contact OGIS in any of the following ways: by mail, Office of Government Information Services, National Archives and Records Administration, Room 2510, 8610 Adelphi Road, College Park, MD, 20740-6001; e-mail, ogis@nara.gov; telephone, 301-837-1996 or 1-877-684-6448; and facsimile, 301-837-0348.

Please call Karen Bennett Bianco at 202-564-3298 if you have any questions regarding this determination.

Sincerely,



Kevin M. Miller
Assistant General Counsel
General Law Office

cc: HQ FOI Office
Leah Rindner, Office of Regional Counsel, EPA Region 10
Stephanie Kercheval, Freedom of Information Officer, EPA Region 10